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PART-I

Notifications, Orders and Declarations by Haryana Government

STATE ELECTION COMMISSION, HARYANA
Nirvachan Sadan, Plot No. 2, Sector-17, Panchkula, Haryana-134109

Order

The 10th January, 2020

No. SEC/IME/2020/12.— Whereas, Sh. Charanjit Singh S/o Sh. Joginder Singh R/o W. No. 1, Indri, Tehsil Indri, District Karnal through his complaint dated 'nil' had alleged that the documents submitted by Sh. Gurmeet Singh S/o Sh. Tara Singh, Member W. No.7, M. Committee, Indri, Karnal, at the time of filing nomination are false and fictitious. He had also alleged that after getting information from School Education Board, Bhiwani and School Education Board, Mohali, Punjab, through RTI, it has been found that the school documents of Sh. Gurmeet Singh are false and fictitious. He had thus made the request to reject the nomination of Sh. Gurmeet Singh and take strict legal action to disqualify him.

2. Whereas, the State Election Commission, Haryana *vide* letter No. SEC/IME/2018/4938 dated 25.09.2018 appointed Sh. Sh. R.C. Sharma, HCS (Retd.) as Enquiry Officer to enquire upon the complaint. The Enquiry Officer submitted his report in the Commission on 31.01.2019, in which he had mentioned/concluded as under:-

“Sh. Charanjit Singh(Complainant) in his complainant has alleged that Sh. Gurmeet Singh had filed false affidavit before the Returning Officer at the time of filing his nomination paper for the election from Ward No. 7, Municipal Committee, Indri concealing the fact that he has passed matriculation examination. The certificate submitted at the time of nomination that he has passed matriculation examination from A-102, Mohali International School, Mohali. His Roll Number in the examination held by Council of Secondary Education, Mohali is shown as 23144. On verification, it was found that no school by this name exists on the given address. The certificate issued by the Council of Secondary Education, Mohali have not been declared equivalent to the matriculation examination either by Haryana School Education Board, Bhiwan or Punjab School Education Board, Mohali. In support of his claim he also produced letter dated 25.06.2018 from Haryana School Education Board, Bhiwani and letter dated 14.06.2018 from Punjab School Shiksha Board, Mohali. He also stated that Roll No.23114 issued in the name of Sh. Gurmeet Singh S/o Sh. Bhag Singh, has not been issued by the Punjab School Education Board, Mohali. In his statement, Sh. Charanjit Singh confirmed the complaint made by him and reiterated that Sh. Gurmeet Singh S/o Sh. Bhag Singh did not possess the required qualification and as such, acceptance of his nomination paper based on his false application/affidavit was liable to be rejected. As such, he was not eligible to contest the said election.

In response to these allegations, Sh. Gurmeet Singh (Respondent) has stated that he had passed the Secondary School Examination and his Roll number is 23114. The certificate has been issued by the Council of Secondary Education, Mohali. The council is recognized from Madurai Kamraj University for admission to graduate classes and he had not concealed any information. His nomination paper was accepted by the Returning Officer after having satisfied with the correctness of the certificate/educational eligibility. He further stated that the Council of Secondary Education, Mohali has also filed a case against State of Punjab in the Hon'ble Supreme Court for the extension of the recognition of the certificate issued by it, which is still pending in the Hon'ble Supreme Court.

The Enquiry Officer has further mentioned that that he heard the complainant as well as the respondent and also perused the document brought on the file by way of evidence lead by parties. It is provided in the disqualification for membership that the member shall be disqualified for being chosen as member of municipality, if he has not passed the matriculation examination or its equivalent from any recognized institute or Board. Since the certificate issued by the Council of Secondary Education Board, Mohali has not been declared equivalent to the matriculation examination by the Haryana School Education Board, Bhiwani, so it cannot be inferred that Sh. Gurmeet Singh has passed/possessed the prescribed qualification. Argument of Sh. Gurmeet Singh that the certificate issued by the Council of Secondary Education, Mohali is allowed by Madurai University, Chennai for graduate courses, is of no consequences as far as this case is concerned. Onus that the returned candidate did possess the requisite qualification is upon him and he is required to prove it on the basis of cogent proof thereof.

The Enquiry Officer has finally concluded that Shri Gurmeet Singh has failed to prove that he had requisite qualification at the time of filing nomination paper before the Returning Officer and thus, the allegation leveled by the complainant stands proved.

3. Whereas, before initiating any action against Sh. Gurmeet Singh the State Election Commission, Haryana decided to provide him an opportunity of personal hearing and as such, he was directed vide Commission's letter No. SEC/IME/2019/383 dated 18.02.2019 to appear for personal hearing on 26.02.2019. On said date Sh. Gurmeet Singh appeared and requested to further extend the date of hearing. Accordingly date of hearing was extended to 12.03.2019. But, in the meanwhile Sh. Gurmeet Singh filed CWP No. 6487 of 2019 in the Hon'ble Punjab and Haryana High Court. Through this petition he challenged the action of this Commission on the ground that the Commission has no jurisdiction to proceed on the complaint of Sh. Charnjit Singh and appointing Enquiry Officer on his complaint. In view of this fact and request of Sh. Gurmeet Singh and his advocate, the dates of hearing were further extended to 27.03.2019, 02.04.2019, 18.04.2019, 07.06.2019, 07.08.2019 and 10.09.2019. The Hon'ble Court finally decided the CWP No. 6487 of 2019 on 02.12.2019 and passed the following orders:-

"Learned State counsel has apprised the Court that the matriculation certificate submitted by the petitioner at the time of the election was found to be fake by the Enquiry Officer appointed by the Election Commissioner. Thereafter, notice was issued to the petitioner to appear before the Election Commissioner. However, instead of appearing before the said body, he has directly approached this Court.

In view of the above, we find no ground to interfere in the matter. The petition is disposed of with liberty to the petitioner to appear before the Election Commissioner pursuant to the notice (Annexure P-4).

Learned counsel for the petitioner shall however be at liberty to seek revival, if any grouse subsists."

4. Whereas, in view of the orders passed by the Hon'ble Court Sh. Gurmeet Singh was heard on 12.12.2019 alongwith his advocate and on his request for short adjournment, final date was fixed for 07.01.2020, he was accordingly informed during hearing. On 07.01.2020, Sh. Gurmeet Singh and his advocate appeared for personal hearing and submit that he has filed a review petition against the order of Hon'ble Court (order dated 02.12.2019 passed in CWP No. 6487 on 2019), which would be listed for hearing shortly. Sh. Gurmeet Singh thus requested to grant him sometime or wait till the decision on review petition. He also submitted representation in support of his statement, but do not produce any stay order or evidence in support of his defense.

5. Whereas, Sh. Charanjit Singh, Complainant was not called for hearing, but on 07.01.2020 he and his advocate also appeared separately and submitted that Enquiry Officer has clearly given the finding that certificate issued by Council of Secondary Education Board, Mohali has not been declared equivalent to that of matriculation examination conducted by the Haryana School Education Board, Bhiwani. Sh. Charanjit Singh thus requested to accept the enquiry report and remove Sh. Gurmeet Singh from the seat of Member, Municipal Committee, Indri under Section 13- I of the Haryana Municipal Act, 1973. He also submitted representation in support of his statement.

6. Whereas, under section 13 I of the Haryana Municipal Act, 1973 it has been provided that.-

13 I. Removal of an elected President and Member having any disqualification at time of election.- The State Election Commission may, after such enquiry, as it may deem fit and after giving an opportunity of being heard, by an order, remove the President or a member, if he was having any disqualification mentioned in section 13A or rules framed under this Act at the time of his election. The office of the President or member so disqualified shall become vacant immediately.

7. And whereas, in view of above position, considering the whole facts of the case, enquiry report, documents and provisions of the Haryana Municipal Act, 1973 and rules framed thereunder, I, Dr. Dalip Singh, the State Election Commissioner, Haryana, in exercise of the powers given under Section 13 I of the Haryana Municipal Act, 1973, hereby orders to remove Sh. Gurmeet Singh S/o Sh. Tara Singh from the seat of Member W. No. 7, Municipal Committee, Indri, Karnal with immediate effect and his office of the member so disqualified shall become vacant immediately. His name is accordingly de-notified from Commission's Notification No. SEC/1ME/2018/3575 dated 24.05.2018.

The matter is disposed off accordingly.

Panchkula:
The 10th January, 2020.

DALIP SINGH,
State Election Commissioner, Haryana.